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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,163	10/23/2003	Reiner Eschbach	D/A2327	1667
7590	11/15/2005		EXAMINER	
Ortiz & Lopez, PLLC P.O. Box 4484 Albuquerque, NM 87196-4484			ABEL JALIL, NEVEEN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/693,163	ESCHBACH ET AL.
	Examiner	Art Unit
	Neveen Abel-Jalil	2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on August 8, 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-August-2005 has been entered.

2. The amendment filed on 8-August-2005 has been received and entered. Claims 1-20 are now pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's specification does not explicitly prohibit the statistic module to be part of the database. Figure 1 shows the statistics module as part of the database system.

The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. See MPEP 2173.05(i).

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Stubler et al. (U.S. Patent 6,804,684).

Claims 1 and 10: As described at col. 3, lines 56-67, col. 5, lines 1-19, col. 6, lines 41-46, and col. 10, lines 1-13, the user can either accept the offered keywords or edit the keywords, which means that the user is presenting keywords which means that the user is presenting alternatives to those are supplied. Wherein the database statistics are deemed to be provided using a program module and the measurable high level and low features and histograms are the statistics at col. 7, lines 26-35 The time of entry for similar images are provided for during the image capture procedure at col. 6, lines 31-45 and col. 7, lines 26-35. The limitaion of “wherein the database statistics module is not part of the database” is read on col. 6, lines 15-20, col. 6, lines 31-42, wherein the storage device is not doing the processing itself instead an image analysis is taking place separately.

Claim 2: As described at col. 10, lines 1- 1 3, the user can either accept the offered keywords or edit the keywords, which means that the user is presenting alternatives to those keyword which are supplied.

Claims 3 and 11: Col. 10, lines 3-8 illustrate that the image along with the selected keywords are stored in the database. The selected keywords that are stored with the image are at least some of the keywords, which were offered to the user.

Claims 4 and 12: If the offered keywords are edited (col. 10, line 2) the keywords stored in the database with the new image are alternative keywords.

Claims 5 and 13: The storage of the new image with its selected keywords inherently updates the database with a new occurrence (a new record in the database). The new image can in fact have a time and date stamp (col. 9, line 35), which is further readable as a time of storage in the database, as the act of storage can occur in the same date or year as the time that the image was captured.

Claims 6 and 14: The storage of the new image with alterative keywords (edited keywords) inherently updates the database with a new occurrence (a new record in the database). The new image can in fact have time and date stamp (col. 9, line 35) which is further readable as

a time of storage in the database, as the act of storage can occur in the same date or year as the time that the image was captured.

Claims 7 and 15: Col. 10, lines 1-3 describes the presentation to user of an editable list of keywords. If the list is edited, the resulting edited words become alternative keywords. The list itself is a data entry field.

Claims 8 and 16: Col. 10, lines 1-6 describes the storage of the new images with either original keywords or alternative keywords produced by the editing action.

Claims 9 and 17: A new entry of an image in a database is readable as an entry of a new subgroup. Each new image and its associated keywords are a subgroup.

Claim 18: Stubler et al. discloses a memory device (12) which includes a database (col. 5, lines 38-39). The system further includes a content retrieval module (computer 10) that provides the image management and retrieval capabilities, a database statistics module (computer program of Figs. 5-7) that performs the analysis of the numerical information in the metadata of FIGS. 5-7) that performs the images, and a user interface (user input devices 22) that allows the user to accept or edit system suggestions for keywords attached to new images. The database statistics module is deemed to be updated during the capture time of new images that are being added or removed from the database thereby leaving it current (col. 6, lines 32-51 and col. 7, lines 26-35).

Response to Arguments

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Powell et al. (U.S. Pub. No. 2002/0073167 A1) teaches image content retrieval statistics calculation module.

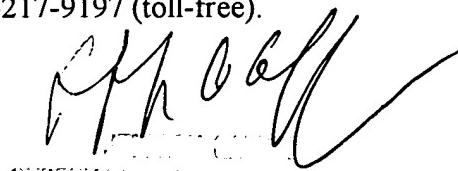
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2165

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
November 9, 2005


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